SOCIAL JUSTICE PROGRAM

Progress and Challenges in Legal Gender Identity Recognition in El Salvador, Guatemala, Honduras, and Mexico, and the Role of Advisory Opinion 24/17 Issued by the Inter-American Court of Human Rights

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Table of Contents

I. Introduction 1

II. Methodology 1

III. Acknowledgements 1

IV. Background 2

The Inter-American Court of Human Rights & Advisory Opinion 24/17 2

The Role of the IACHR & OAS PUICA in the Implementation of AO 24/17 3

The Inter-American Commission on Human Rights (IACHR) 3

The Universal Civil Identity Program in the Americas (PUICA) 3

V. Analysis of the Evolution of Legal Gender Recognition in the Four Countries 5

Introduction 5

El Salvador 6

1. General Context 6

2. Normative Framework on LGR (and SOGI) 7

3. Impact of AO 24/17 7

4. The Opposition 8

5. Recommendations from Activists on the Way Forward 8

Guatemala 9

1. General Context 9

2. Normative Framework on LGR (and SOGI) 10

3. Impact of AO 24/17 11

4. The Opposition 11

5. Recommendations from Activists on the Way Forward 12

Honduras 12

1. General Context 12

2. Normative Framework on LGR (and SOGI) 13

3. Impact of AO 24/17 and the *Vicky Hernández v. Honduras* Judgment 14

4. The Opposition 14

5. Recommendations from Activists on the Way Forward 15

Mexico 15

1. General Context 15

2. Normative Framework on LGR (and SOGI) 16

3. Impact of AO 24/17 19

4. The Opposition 19

5. Recommendations from Activists on the Way Forward 19

VI. Conclusions & Recommendations 21

The letters of the LGBTTTQI+ initialism—referring to Lesbian, Gay, Bi, Transgender/Transexual/Travesti, Queer, and Intersex—appear in various forms and combinations on the following pages depending on their use by the individuals, organizations, or documents referenced.

Front Cover photo: Bianka Rodriguez, executive director, COMCAVIS Trans, Women's Rights March, El Salvador, 2021. ©COMCAVIS Trans

I. Introduction

This report,[1] commissioned by the Arcus Foundation, examines the current state of legal gender recognition (LGR) in El Salvador, Guatemala, Honduras, and Mexico in the context of the implementation of the Inter-American Court of Human Rights' Advisory Opinion 24/17 (AO 24/17), which established the right to legal gender identity recognition for trans people in the Americas. In doing so, the report examines the legal situation in the four countries in the past few years; the extent to which the legal changes or domestic developments have had an impact on the lives of trans and gender nonconforming people; the actions being developed by the opposition; the relevance of AO 24/17; and the role of Arcus' grantees in the advocacy efforts to expand access to LGR, through established framework questions. The researchers hope that this report contributes to furthering support for legal gender identity recognition in the countries under study and, hopefully, beyond as well.

II. Methodology

The methodology for this report involved the following steps:
(1) Conducting research to gather information
(2) Carrying out online interviews with Arcus' grantees and other key actors
(3) Processing and analyzing interviews to gain insights and identify key themes
(4) Conducting additional research to supplement the information gathered
(5) Drafting and submitting a final report (this process was completed between March and June of 2023)

There were a few limitations in the elaboration of this report that are important to highlight. First, there was a page limitation, which impacted the researchers' ability to go into detail about the different normative and legislative frameworks in each of the countries. Second, the organizations interviewed were mostly grantees of Arcus, and thus the analysis regarding potential opportunities for future engagement reflected mostly these exchanges. Finally, the researchers are (lesbian and queer) *cisgender* women who have been working on LGBTQI+ rights for several years, which has allowed them to gain knowledge about the issues trans people face, although not through their personal first-hand experience.

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IV. Background

The Inter-American Court of Human Rights & Advisory Opinion 24/17

The Inter-American Human Rights System is a regional system created to protect and safeguard human rights in the 35 independent countries of the Americas, which are members of the Organization of American States (OAS). Its main goal is to promote, monitor, and protect human rights within the region. The system is composed of two key bodies: the Inter-American Commission on Human Rights (IACHR or the Commission) and the Inter-American Court of Human Rights (I/A Court or the Court). These entities investigate complaints regarding human rights violations and can issue emergency protective measures if necessary to prevent immediate harm to individuals or groups.

In addition to its mandate to adjudicate in cases regarding human rights violations,[2] the I/A Court has an advisory function. The I/A Court is the ultimate interpreter of the most important treaty in the regional human rights system, the American Convention on Human Rights (American Convention), which has been ratified and is binding in the four countries under study. According to the Court, the main purpose of this advisory function is to obtain a judicial interpretation of one or several provisions of the American Convention or other treaties concerning the protection of human rights in the countries in the region.[3] Through advisory opinions, the Court determines how the American Convention is to be interpreted, in terms of the human rights protected and the ensuing obligations that states have in order to protect and guarantee fundamental human rights.

In May 2016, Costa Rica requested the Court to issue an advisory opinion on aspects regarding the interpretation of the American Convention and its compatibility with domestic law on legal recognition of gender identity, as well as other aspects involving nondiscrimination against same-sex couples. Following the established procedure, which included submissions from several OAS Member States, the IACHR, different United Nations bodies and civil society organizations, the Inter-American Court issued Advisory Opinion 24/17 (AO 24/17) in November 2017 (published January 2018).[4] Before AO 24/17, there had been 23 other advisory opinions on different topics, including the rights of children and migrants. In 2022, the I/A Court issued advisory opinion 29/22, concerning states' obligations regarding persons deprived of liberty, which has a section regarding the intersection with sexual orientation and gender identity (SOGI).

Through AO 24/17, the Inter-American Court recognized the right to decide one's own gender identity based on the human rights enshrined in the American Convention, including: the rights to dignity, private and family life, personal autonomy, free development of personality, personal liberty, identity, freedom of expression, legal personhood, name, and equality and nondiscrimination. The Court affirmed that states must guarantee people's gender identity, as this is key to the full enjoyment of other human rights.[5] Further, and in accordance with the principles of equality and nondiscrimination, the Court stated that it is not reasonable, and thus directly contravenes the American Convention, to establish a difference in treatment between cisgender and transgender people who intend to carry out corrections/rectifications of their identity documents.[6]

Most importantly, the Court held that the rectification of identity documents in accordance with someone's self-perceived gender identity (rectification of the gender/sex marker, modification of the name, and adaptation of the image) constitutes a human right protected by the American Convention. As such, states, in accordance with Article 2 of the American Convention, are obliged to recognize, regulate, and establish the appropriate procedures to ensure that people who need to rectify their gender or sex marker, change their name, and adapt their image in official records and/or in their identity documents, can do so in accordance with their self-perceived gender identity, in simple procedures free from stigmatization and pathologization.

Further, the Court affirmed that states must ensure that they provide access—without interference by public authorities or third parties—to a domestic procedure that complies with the following requirements: (a) it is focused on the full adaptation of the self-perceived gender identity; (b) it is based solely on the free and informed consent of the person, without requirements such as medical and/or psychological certifications, surgical and/or hormonal interventions, or others that may be unreasonable or pathologizing; (c) it is confidential; (d) it ensures that corrections or adjustments made in accordance with the gender identity fully substitute the deadname/identity in the records, and/or identity

documents; (e) it is expeditious; and, (f) as much as possible, it is free of charge. The Court stated that the procedure that best complies with these requirements is the administrative or notarial procedure.

Because this advisory opinion touches on issues of sexual orientation and gender identity, including mentioning the term "same-sex marriage" once in the more-than-100-pages decision, conservative groups and governments have argued that it is not binding. It is worth noting that there has been very little debate as to how binding the previous 23 advisory opinions were. The standards established in AO 24/17 are binding, as per the *principio de convencionalidad*. In terms of the Court, "under international law, when a State is a party to an international treaty, such as the American Convention, this treaty is binding for all its organs, including the Judiciary and the Legislature, so that a violation by any of these organs gives rise to the international responsibility of the State. Accordingly, the Court considers that the different organs of the State must carry out the corresponding control of conformity with the Convention to ensure the protection of all human rights. This is also based on the Court's considerations in exercise of its noncontentious or advisory jurisdiction, which undeniably shares with its contentious jurisdiction the purpose of the inter-American human rights system, which is the protection of the fundamental rights of the human being."[7] Thus, El Salvador, Guatemala, Honduras, and Mexico are mandated to harmonize their domestic law with the standards set by the Court in AO 24/17.

The Role of the IACHR & OAS PUICA in the Implementation of AO 24/17

The Inter-American Commission on Human Rights (IACHR)

The IACHR is composed of seven human rights independent experts ("commissioners"), who are nominated by states and elected for a renewable term of four years by a majority vote of OAS Member States gathered at the General Assembly. The IACHR has established different mechanisms to monitor and oversee compliance with human rights enshrined in the American Convention, the American Declaration on the Rights and Duties of Man, and other inter-American human rights treaties. Among these mechanisms, the IACHR has established country and thematic rapporteurships.[8] Given the increasing concerns over human rights violations, particularly killings and prejudice-based violence on the basis of sexual orientation, gender identity and expression, and sex characteristics, in 2011 the IACHR established the LGBTI Rights Unit, which in 2012 became the Rapporteurship on the Rights of LGBTI Persons.[9]

The IACHR has played an important role in promoting AO 24/17 through its different functions: application of the standards in cases, country reports, and thematic reports,[10] technical cooperation with states, promotion activities with civil society organizations, country visits, and press releases, among others.[11] The leadership of the IACHR LGBTI Rapporteur, Roberta Clarke, has been key. In the current composition, out of the seven commissioners, two—Carlos Bernal from Colombia and Stuardo Ralón from Guatemala—openly oppose LGBT rights and reproductive rights, expressed through dissenting votes in LGBT and abortion rights cases, dissenting opinions to tweets from the Commission (an unprecedented action), and even on thematic reports.[12] Commissioner Ralón, for example, has directly questioned the existence of the right to gender identity for trans people, indicating that it is not a right recognized in the American Convention on Human Rights.[13]

On June 23, 2023, the OAS Member States gathered at the General Assembly elected three new commissioners (Arif Bulkan from Guyana, Gloria Monique de Mees from Suriname, and Andrea Pochak from Argentina) who will serve for a period of four years, starting January 1, 2024, and reelected Commissioner Ralón from Guatemala.[14]

The Universal Civil Identity Program in the Americas (PUICA)

In 2008, the OAS established the Universal Civil Identity Program in the Americas (*Programa de Universalización de la Identidad Civil en las Américas*—PUICA) through a resolution by the OAS General Assembly.[15] PUICA supports OAS Member States "in their efforts to eradicate under-registration, in order to ensure recognition of the right to civil identity for all persons in the region."[16] To this end, PUICA has five objectives: (a) universalization and accessibility of civil registration and the right to identity; (b) strengthening policies, public institutions, and civil identity legislation; (c) citizen participation and awareness; (d) identification of best practices; (e) international and regional cooperation through the Latin America and Caribbean Council for Civil Registration, Identity and Vital Statistics (CLARCIEV). PUICA also serves as the Secretariat of CLARCIEV.[17] Since its creation, PUICA has "implemented technical cooperation projects in 20 Member States . . . , achieving the issuance of more than nineteen million birth certificates and national identification cards. Among the implemented projects are various initia-

tives that have managed to provide identity documents to migrants, people displaced by violence, Indigenous populations, cross-border populations, populations living in rural areas, and others, who live in conditions of risk and vulnerability."[18]

Regarding gender identity recognition,[19] and taking into account that the Inter-American Court made reference to PUICA in AO 24/17, PUICA sought funds and developed a project to support civil registries in the region in their efforts to adjust their domestic legislation to the standards established therein.[20] The work carried out by PUICA, in collaboration with Synergía—Initiatives for Human Rights, has not only advanced conversations with civil registries in the region in favor of trans rights, but it has also helped identify what future actions and work are required, for example regarding the right to identity for nonbinary people and understanding of the requirements needed to advance certain rights in specific countries. It is important to highlight that PUICA can only collaborate with states and civil registries that request technical cooperation, and cannot itself start the collaboration process.

V. Analysis of the Evolution of Legal Gender Recognition in the Four Countries

Introduction

All the interviewees who were trans human rights activists agreed that the lack of documentation that reflects their name and identity not only severely fuels discrimination in accessing healthcare, employment, education, and exercising the right to vote, but also hinders their ability to conduct everyday activities, such as opening a bank account or even buying a SIM card for their phones, and constitutes a major obstacle to exercising their right to equality and nondiscrimination. In addition to the issues mentioned, in some contexts like in El Salvador, trans men face additional threats to their safety due to gang-related violence and gangs' disputes over territories.

All interviewees for this project—even in the countries where it has not translated into significant progress in terms of LGR—agreed that AO 24/17 has been key in strengthening their advocacy efforts, and in signaling to state institutions the standards to be followed for gender identity recognition. Further, several interviewees agreed that AO 24/17 has had a tremendously positive impact in empowering the trans community domestically,[21] while also shifting the paradigm for activism in the region.[22]

Out of the countries under study, **Mexico** is by far the country where there have been the most developments and progress in terms of LGR, and direct implementation of AO 24/17. Twenty states and Mexico City (CDMX) allow trans people to rectify their name and gender marker, with a vast majority of these states seeing this positive shift in the last five years. Also, Mexico is the only country in this report that recognizes the gender identity both of trans youth under 18 years of age (in certain states and local jurisdictions) and of nonbinary people.

Next on the list, not necessarily in terms of positive developments that have happened so far, but in terms of promising opportunities of what could happen in the coming years, is **Honduras**. Although there has not been much progress through domestic litigation or through advocacy at the Legislature, the I/A Court's ruling on the killing of Vicky Hernández, a trans woman human rights defender, has mandated the country to establish a procedure of legal gender identity recognition. Also, since 2020, the ID card in Honduras does not have a sex/gender marker, and trans people have been allowed to use a picture reflecting their gender expression/identity. Some trans activists have conveyed that this is a positive development, despite not being fully compliant with international human rights standards on gender identity recognition.[23]

Regarding **El Salvador**, although there is strong opposition to advances on LGR and the political context is not sympathetic to LGBTQ rights, the Supreme Court issued a favorable decision in February 2022, giving Congress one year to legislate on gender identity recognition. Also, two people have been granted their right to a name and gender marker rectification following years of (ultimately successful) litigation; however, these changes have not been reflected in their documents, due to conscientious objection by local officers in charge of registering. Two more people have obtained decisions through litigation, rectifying their names but not their sex/gender markers due to arguments around "biology."

The country with the least progress is **Guatemala**, due to a general environment of opposition to trans rights and LGBTQ rights in general. Despite this, and thanks to support from the Arcus Foundation and the work of OTRANS-RN in the country, about 400 trans people have been able to change their name—although not their sex/gender marker shown on their ID card. This has represented a small but significant step to them personally,[24] despite it not recognizing their gender identity, and far from complying with the standards established in AO 24/17. There was also one decision in favor of recognizing a trans man's identity on his university diploma.

MUJERES DIVERSAS Y POBLACIÓN LGBTIQ+;
PRINCIPALES RETOS ANTE
LAS VULNERACIONES DE DERECHOS HUMANOS,
DESPLAZAMIENTO FORZADO Y MIGRACIÓN

Bianka Rodriguez, of COMCAVIS Trans, speaks at a November 2023 forum on women's diversity and the LGBTQI population, focusing on the main challenges of human rights violations, and forced displacement and migration. ©COMCAVIS Trans

El Salvador

1. General Context

El Salvador faces significant challenges to its democracy and the protection of human rights.[25] There are serious concerns about respect for the rule of law following a series of decisions by President Bukele and his political allies which have seriously undermined the separation of powers.[26] In 2021, his party Nuevas Ideas took control of Congress and dismissed judges from the Constitutional Chamber of the Supreme Court. President Bukele's supporters in Congress "have a two-thirds majority, which they have used to pursue an agenda backed by Bukele that has nearly eliminated checks on his power. They have packed the Supreme Court, replaced the attorney general, and passed laws dismissing hundreds of lower-level judges and prosecutors. They have also shelved bills that would have partly decriminalized abortion and established legal gender recognition for transgender people."[27] President Bukele announced his intent to stand for reelection for a second consecutive term, despite a constitutional prohibition against it, following a highly criticized decision by judges appointed by his political allies at the National Assembly, interpreting the constitutional ban in a way favorable to his reelection.[28]

Violence against LGBT people in El Salvador continues to be high[29]—and in some instances, such as during the State of Emergency (*"regimen de excepción"*), which allowed for the suspension of rights and guarantees in the context of the "war" against gangs, declared initially by Congress in March 2022, violence against LGBT people has been aggravated, particularly by state agents.[30] However, according to the local human rights group ASPIDH, the number of violence-related complaints has decreased due to the fear felt by victims of human rights violations in terms of the consequences of reporting incidents in the context of the State of Emergency and the general mistrust of the justice system, given the high levels of impunity.[31] In 2020, there was a landmark conviction of three police officers who were sentenced to 20 years in prison for the murder of Camila Díaz Córdova, a trans woman who had been deported from the United States in 2017.[32] But this is an isolated case, and impunity for violence against LGBT people in El Salvador is widespread.

Human rights defenders and international human rights institutions are generally seen as opposition to the government, particularly given the context of the State of Emergency. President Bukele has publicly denounced the IACHR as being on the side of "criminals,"[33] due to its criticism of the State of El Salvador for serious human rights violations.[34] As affirmed by an interviewee for this project, "the current government has declared itself an enemy of civil society organizations, for evidencing human rights violations. It is a complex landscape."[35] According to the Trans Murder Monitoring project, 60 trans people were murdered between 2008 and 2022 in El Salvador.[36]

2. Normative Framework on LGR (and SOGI)

A few years ago, El Salvador was slowly making progress on the rights of LGBT people. For example, it increased penalties for bias-motivated crimes;[37] approved technical guidelines on access to healthcare for LGBT people; issued Decree 56 in 2010 to protect public servants from discrimination;[38] and joined the OAS and UN LGBT Core Groups, among other developments. All this changed when Nayib Bukele became president. President Bukele "opposed marriage equality, effectively shut down the government's sexual diversity work, and refused to support legal gender recognition for trans people."[39]

Before 2018, there were some actions taken by the previous administration, such as the creation of a Directorate for Sexual Diversity within the Executive Branch. However, in 2019, 36 hours after taking office, President Bukele transferred the Secretariat for Social Inclusion (*Secretaría de Inclusion Social*) to the Ministry of Culture, which lacked, according to the IACHR, "the resources, the mandate and the approach of its predecessor."[40] Further, El Salvador has withdrawn from both the UN and OAS LGBT Core Groups. The IACHR had already warned in December 2019 that the "limited progress that had been made so far . . . may be at risk of being reversed or disappearing altogether."[41]

There is no legislation allowing for the rectification of name and gender marker in El Salvador. There has been some progress through legal actions filed in the courts, as discussed below, but there is a general unwillingness of State institutions to make progress on trans rights or LGBT rights in general. Although there have been several gender identity bills discussed in Congress over the years, these have been either "*archivadas*" or dismissed due to general lack of political will to make progress.[42] In May 2021, for example, the bill was dismissed for being "obsolete," and not in accordance with the "real needs" of Salvadorans.[43]

Civil society has played a significant role in advancing LGBT rights in El Salvador. To name a few positive developments, COMCAVIS Trans and ASPIDH have trained public servants at the national registry,[44] and HT El Salvador has carried out capacity-building activities for members of Congress.[45] There is also the Permanent Committee for a Gender Identity Law (*Mesa Permanente por una Ley de Identidad de Género*), made up of five human rights organizations, including trans organizations, who continue to work toward the adoption of a gender identity law in the country.[46] However, as indicated by civil society organizations, "our hands are tied. We did everything we could to make progress on gender identity recognition, but it is up to the State now."[47] Regarding public servants' attitudes, an interviewee affirmed that "public officials often do not clearly state whether they are in favor or against name change actions; they say yes, but then their actions say otherwise."[48]

Advocacy has continued to be carried out at the international level, with limited results due to the unwillingness of the State of El Salvador to engage on these issues, as well as its well-known anti-multilateralism stance. For example, in March 2023, ASPIDH and Red Latinoamericana y del Caribe de Personas Trans (Network of Trans People in Latin American and the Caribbean, RedLacTrans) presented information on the right to gender identity in El Salvador before the IACHR during a public hearing,[49] which the State failed to attend.[50]

3. Impact of AO 24/17

In February 2022, the Constitutional Chamber of the Supreme Court of El Salvador ruled that the Constitution prohibits discrimination based on gender identity, and thus, that the law regulating access to a legal name in El Salvador was partially unconstitutional. The Supreme Court held that the lack of regulation of conditions under which people can change their name to accord with their gender identity is discriminatory. It gave Congress a one-year deadline to establish a procedure that allows trans people to rectify their legal documents in accordance with their gender identity.[51] The legal action that resulted in this landmark ruling was filed in 2016 by Karla Avelar, then director of COMCAVIS. According to the latter organization, the legal action was almost dismissed, but when AO 24/17 was handed down, the Supreme Court "was left without grounds" to dismiss it.[52] The Supreme Court decision makes reference to the standards established by the I/A Court in AO 24/17 for legal gender identity recognition.[53]

The deadline passed in February 2023, without Congress having enacted a gender identity law nor established a procedure for legal gender identity recognition,[54] despite having at least one bill on gender identity, which was introduced in August 2021.[55] Regarding this delay, Bianka Rodríguez, executive director of COMCAVIS, said, "if the Legislative Assembly of El Salvador is committed to human rights and the rule of law, it should heed the Supreme Court ruling without delay and create a legal gender recognition procedure, which upholds our self-determination, dignity, and freedom. Trans people have been demanding this for years and until such a procedure is created, we will continue to be subjected to violence and discrimination."[56] Due to the lack of compliance with this ruling, COMCAVIS Trans and Synergía—Initiatives for Human Rights filed a petition against El Salvador before the IACHR in January 2023.[57]

All three Salvadoran organization staff interviewed agreed that AO 24/17 has been key for local activists to advocate for gender identity recognition, mostly through litigation and advocacy before Congress,[58] but this has not moved State institutions into action. Since the publication of AO 24/17 in January 2018, local trans organizations in a coordinated manner filed four different lawsuits before different tribunals in different provinces, using AO 24/17, seeking rectification of names and gender markers for four trans human rights defenders.[59] In one of these cases, that of Monica Linares, the local appellate court in Santa Ana[60] indicated that there was no standard in El Salvador to allow for gender identity recognition, directly contravening AO 24/17.[61]

Two of the other cases, those of Bianka Rodríguez and Verónica López, resulted in the plaintiffs becoming the first trans women to have their name—but not their sex marker—changed in their legal documents.[62] Bianka's case was initially dismissed, but then admitted at the order of an appellate court. She was given three days to provide a very long list of supporting documents, including certified documents regarding schooling, criminal record, background checks, psychological tests, and medical certificates regarding surgeries and hormonal treatment, in direct contravention of AO 24/17. After a stigmatizing public hearing and a lengthy legal process, the judge finally ruled that she had the right to rectify her name, but not her sex/gender marker. It took another few months for the decision to be fully implemented by the local authority, which even doubted the veracity of the ruling at first.[63]

In July 2022, Aldo Peña became the first trans man to have his name and gender marker changed through a court order.[64] Unfortunately, the public official in charge of complying with the decision raised a conscientious objection.[65] The judge that ruled in favor of Peña also received threats and will no longer receive this type of case.[66] In September 2022, Karla Guevara, who had undergone gender-affirming surgery, was the first trans woman to obtain a favorable decision by a judge in San Salvador, after two years of proceedings that were stigmatizing for her.[67] Like Peña, Guevara is also facing conscientious objections and difficulties at the civil registry in having her documents rectified, in compliance with the court ruling.[68]

4. The Opposition

Opposition to trans rights, and LGBTQ rights in general, in El Salvador has historically and traditionally come from the legislature. For example, as the IACHR recalls, "three articles of the Constitution were amended in 2015 to expressly prohibit marriage between same-sex couples and to provide that marriage is only permitted between a man and a woman 'born as such'."[69]

In the past, there have been a few allies but not enough to move Congress to pass a law. A gender identity bill was pending in Congress for more than 14 years only to be dismissed in 2021. It is clear that the Executive Branch has opposed trans rights since Bukele took office. Elections for president, vice president, and all 84 seats of the unicameral Legislative Assembly will be held February 4, 2024. Despite major allegations by international human rights experts of serious abuses by the government and the governing political party, Nuevas Ideas, President Bukele continues to have the support of the majority of Salvadorans,[70] and will likely be reelected. His popularity and that of his party is linked to his tough stance against gang violence. President Bukele announced in May 2023 that 365 days had passed without one homicide in El Salvador.[71]

5. Recommendations from Activists on the Way Forward

Organizations interviewed expressed the need for Arcus to support:

- Advocacy efforts to pass gender identity legislation, even if the current political situation seems unfavorable to yield significant progress
- Litigation, both at the domestic and the international level, to continue pressuring the administrative authorities and civil registries to recognize the right to gender identity
- International advocacy to continue pressuring government institutions at the regional and international levels through supporting shadow reporting, as well as

participation in multilateral spaces to engage directly with state representatives

- Free legal counsel for trans people, especially to support the possibility of changing their names, and avoiding extortion
- Strengthening the capacity of organizations, as well as institutional development, in order to guarantee more effective implementation of projects
- Development of health guidelines to assist in ensuring proper healthcare for trans people
- Actions that are linked to enhancing the safety of activists and judges in El Salvador, particularly given threats received by judges who have decided in favor of gender identity recognition
- Work of organizations led by trans men—not necessarily through supporting trans women's organizations, but separately and independently—even if they are not experienced in managing larger funds. They should be given the opportunity to be funded directly, in order also to gain more experience in managing larger funds
- Efforts of intergovernmental institutions such as PUICA and regional human rights organizations like the IACHR to foster dialogue and technical cooperation with the different state institutions

Guatemala

1. General Context

As of 2021, the population of Guatemala was 17 million, with about 43.75 percent belonging to Indigenous groups.[72] For a few years now, there have been serious threats to democracy and the rule of law, given the shutting down of investigations into corruption, generalized impunity, and political persecution, through unfounded criminal proceedings against judges, prosecutors, journalists, and human rights defenders.[73] In October 2022, three U.S. human rights organizations issued reports on major human rights violations by the State of Guatemala, and drew attention to "Guatemala's path to authoritarianism," in a context where "twenty-five judges and prosecutors, including the nation's lead anti-corruption prosecutor, have fled the country, and others remain jailed or were forced to resign."[74] Elections for president, vice-president, and all 160 seats in Congress took place on June 25, 2023, in a highly controversial context in which certain opposition candidates were arbitrarily barred from running.[75]

Violence and discrimination against LGBT people, and trans people in particular, are high and pervasive in Guatemala. Discrimination against trans people includes barriers to

Alex Castillo of Trans-Formación, an organization for trans men in Guatemala. ©Trans-Formación

accessing healthcare and difficulties in voting and in obtaining educational certificates.[76] From a young age, trans people are often excluded from childhood and adolescent experiences and may end up being trafficked or forced into sex work.[77] The year 2021 was a particularly violent year for trans and LGBT communities as a whole. In only one week in June 2021, two trans women and one gay man were killed.[78] The killing of human rights defender Andrea González, executive director of OTRANS-RN and member of the LGBTTTI and Sex Workers Coalition from Latin America and the Caribbean in the context of the OAS, particularly shocked the international community.[79] The prosecutor is seeking a charge of homicide without consideration of gender identity, due to legal limitations.[80] According to Transgender Europe (TGEU), 65 trans people were murdered between 2008 and 2022 in Guatemala.[81] Trans Indigenous people face multiple obstacles and violence at the intersection of gender expression and identity and culture, as well as additional challenges related to language and distance, given that many live far from the capital, among others.[82]

Though there were some efforts to expand rights earlier in the decade, legislation and attitudes have hardened against the LGBTQ community since 2019. Overall, progress from 2014 to 2018 has now halted or even reversed. For example, in 2016, the RENAP (Registro Nacional de las Personas) issued a directive calling for respect of trans people's names and identities when they engage with state officials.[83] There were, however, several reports from local organization REDMMUTRANS that documented violence and discrimination in the electoral process in 2019.[84]

As noted in 2016, "the changes took place quietly beginning in 2014, when the Human Rights Prosecutor's Office set up a Sexual Diversity Defense branch, the country's first official entity dedicated to protecting the rights of [LGBTQ] people. Activists say the reforms were the result of grassroots lobbying aimed at specific institutions instead of trying to push laws in Congress. Groups are also holding sensitivity training sessions with police officers. But with no official announcements or media attention, the gains were almost entirely unknown until some people began talking about them in recent months. Most Guatemalans are unaware, and there has been no pushback so far from the Roman Catholic Church or other conservative sectors."[85]

Former ombudsperson Jordán Rodas, who ended his term in August 2022, was prominent in criticizing anti-LGBT bills and drawing attention to human rights violations against LGBT people, as well as the lack of an LGBT policy,[86] and has accused President Giammattei of co-opting other branches of government and concentrating power "as if he were an emperor."[87]

2. Normative Framework on LGR (and SOGI)

In general terms, there is no normative or regulatory framework in place in Guatemala to promote the rights of LGBT people or to protect them from discrimination or violence. In 2015, the government approved the Comprehensive and Differentiated Health Care Strategy for Transgender People in Guatemala 2016–2030,[88] but it has not been implemented.[89]

Attempts to pass a gender identity law and other bills to protect LGBT people have yielded no results. For example, Bill 5395 on gender identity recognition[90]—introduced in December 2017 and covering various aspects of trans human rights, including the right to identity—was thrown out nine months later.[91] Legislator Sandra Morán[92] also introduced Bill 5278,[93] "Law to sanction prejudice-based crimes," which proposed to enhance penalties in the criminal code and incorporate hate crimes, including those based on sexual orientation or gender identity, but this was thrown out in 2017.

In Guatemala, the Civil Code—regulated through a directive from RENAP—allows individuals to change their name, and the trans population has taken advantage of this right. Individuals can also modify the photograph on their identification documents.[94] However, sex markers are not modified through this process. Local organizations, such as OTRANS-RN, have provided support for 400 people to rectify their name and photo—but not sex marker—on their documents. It is a process that is costly: just the publication in local papers announcing the change—a requirement under the domestic civil law procedure—is about US$200. This prompts price speculation by private actors, some charging up to US$700. But OTRANS-RN does it through a lawyer paid for by the Arcus Foundation.[95] However, as indicated by the Office of the Ombudsperson, this change is not automatic in all administrative or government offices; for example, for voting purposes, trans people must carry out additional steps to ensure the change is reflected across the board.[96]

There are major obstacles, however, in terms of access, both to obtain the change and then to exercise the right. As affirmed by an interviewee for this project, "there are 22 departments [states], and 360 municipalities. There is a local office of the RENAP in each of the municipalities. Trans women come to the capital to get the change done, which is costly and burdensome, but when they go back to their hometowns, the change is challenged by the local authorities. We have documented cases of trans women who have been excluded

from voting. There is a protocol by RENAP on nondiscrimination based on SOGI, but it is not implemented."[97]

There has been at least one positive development through litigation in Guatemala, concerning the right to recognition of the gender identity of a trans man on his university diploma. In August 2021, a civil court granted him an *amparo*, ordering the university to rectify the gender on his university diploma. The decision makes reference to the right to gender identity, even referring to the Yogyakarta Principles.[98]

3. Impact of AO 24/17

Although trans organizations in Guatemala have conducted several efforts to domesticate AO 24/17, there has been no progress in incorporating the standards into domestic law through the legislature, courts, or the Executive. Conservative views now stand to obstruct further advances in human rights in the country. As seen below, several attempts have been made by the conservatives dominating Congress to preserve a conservative social order.

4. The Opposition

Guatemala has a long history of opposing LGBT rights and the reproductive rights of women. In 2018 and 2019, then president Jimmy Morales made statements opposing marriage equality[99] and actually ordered a halt to the drafting of pro-LGBTI public policy being developed by the president's office through COPREDEH.[100] Further, in his speech expelling the independent monitoring mechanism on corruption (CICIG), former President Morales stated that marriage was between a man and a woman. In the words of a local trans activist, "in Guatemala, the attacks on democracy and the fight for human rights have been anti-gender. Since the day of the former president's declaration and at this moment of great attention to anti-corruption, a wave of sentiment has risen that casts LGBTIQ+ people as internal enemies and a threat to society. This is not only a speech aimed at legitimizing a corrupt cause or political agenda, it is part of a vision of a world which seeks to maintain an exclusive social, cultural, and economic order."[101]

Currently, the opposition is seen in all branches of government, as well as from well-organized religious groups. In March 2022, President Giammattei praised the designation by a Mexican-based regional anti-choice and anti-LGBT organization of Guatemala as the pro-life capital of the region.[102] Although this is a statement directed against abortion, it is also a clear signal of anti-LGBT, anti-gender identity recognition. Also, the RENAP,[103] the national authority that handles registration, opposes gender identity recognition.[104] Finally, in 2017, the Supreme Court ruled negatively in an *amparo* filed by Mayte Marroquin and Andrea González against the RENAP's decision not to recognize their gender identities.[105]

Opposition also comes in the form of a crackdown on civil society organizations. In 2020, the Guatemalan government approved Decree 4-2020,[106] or NGO Law, which has raised concerns among civil society organizations. The new law allows the government to revoke NGO registrations and increase financial control over their operations. It also gives the government the power to halt the actions of NGOs by labeling their activities "civil disobedience."

Congress not only opposes rights for LGBT people and gender identity recognition, but is in fact pushing for legislation to roll back these rights, as well as further limiting reproductive rights. During the 2019 elections, more than 15 presidential candidates signed a statement against abortion and same-sex marriage,[107] signaling a lack of support for trans rights as well. In March 2022 and by a large majority, Congress passed Law 5272, "Law for the Protection of Life and Family,"[108] which sought to enhance penalties for abortion, criminalize miscarriages, prohibit same-sex marriage, ban the teaching of sexual diversity and gender equality in schools, and protect from prosecution people or groups who engage in sexual orientation-based discrimination.[109] The law was opposed by the ombudsperson for contravening international law.[110] A human rights group argued that it was a "smokescreen" for corruption.[111]

President Giammattei, who had publicly expressed his support for the bill, vetoed the law, citing technical difficulties, and issued a general statement saying that it violated the Constitution. But "officials and human rights activists say the reversal was probably prompted by the immediate backlash to the approval of the bill at home and abroad, which made signing it politically risky for Guatemala's profoundly unpopular president."[112] As indicated by a local activist, "in Guatemala, the reversal of the anti-rights initiative 5272 was achieved when various sectors such as LGBTIQ+, feminists, fathers and mothers, even associations of health professionals, agreed to reject it. Similar results were seen in the fight against corruption in 2015. The proposal then is to weave networks and complicities to build broad movements around the political clarity that the demand for dignity brings with it."[113]

In December 2021, a bill to Guarantee the Comprehensive Protection of Children and Adolescents against Gender Identity Disorders, also known as Bill 5940,[114] was presented and received the approval of 21 legislators in the

Commission of Education, Science, and Technology.[115] This initiative aims to prohibit the discussion of gender identity in schools and restrict the coverage of gender identity issues in the media. Additionally, it associates gender identity with pornography and recommends that media related to it not be viewed by people under the age of 18. Although discussions of this bill do not seem to be "active" at the moment, the push for passing it could come at any time.[116]

Opposition groups have condemned pro-LGBT actions by a former ombudsperson, such as a statement in June 2020 during Pride, denouncing him for acting in favor of "gender ideology."[117] Guatemalan society as a whole is conservative, pressuring political leaders to maintain a conservative agenda. According to a 2018 poll, 78 percent of people were found to be against marriage equality.[118]

Additionally, anti-trans narratives related to a supposed erasure of cisgender women by trans women are becoming increasingly prevalent in Guatemala; any recent attempts to lobby members of Congress into passing gender identity laws have been seen as anti-biology, which is extremely concerning for local human rights groups.[119]

5. Recommendations from Activists on the Way Forward

Organizations interviewed expressed the need for Arcus to support:

- Continued advocacy in the legislature to discuss gender identity legislation, even if chances of passing it in the very conservative Congress are slim. This is particularly important because of how active Congress is in Guatemala; as seen above, it has passed and discussed bills directly limiting and opposing the recognition of the human rights of trans and LGBT people in general. Thus, it is key to maintain the issue on the public and political agenda of the country to prevent further backsliding. Also, as indicated above, Guatemala held elections for members of Congress on June 25, 2023, which, although unlikely, could shift views around LGR in the legislature
- Efforts to guarantee access to healthcare services for the trans community, which include training of healthcare professionals to reduce discrimination in the public health system
- Initiatives to undertake intersectional approaches to the work on LGR by:
  - Intentionally incorporating trans people who belong to Indigenous communities, given the high percentage of Indigenous' peoples in Guatemala
  - Providing support to trans children and youth
  - Making sure lower income and rural trans people are taken into account
  - Undertaking other intersectional approaches in consultation with local organizations
- Continued funding for documentation of violence against and murder of trans people, through initiatives like CeDoSTALC (Centro de Documentación y Situación Trans en Latinoamérica y el Caribe)
- Collaboration with state agencies like the civil registry (RENAP), to ensure nondiscrimination in name changes and access to general elections; particularly, a sustainable method must be developed for trans individuals to change their names without charge
- Collaboration with the limited number of state institutions that might be amenable to advancing LGBT rights. Consultations should be made with local organizations as to which ones specifically, although institutions such as CONJUVE (National Youth Council) and the Office of the Ombudsperson came up as possibilities
- Domestic litigation, as well as strategic litigation at the regional and international levels, as part of a long-term strategy
- Direct funding to trans-led and trans-focused organizations, without intermediaries, as financial support received through the International Trans Fund is not enough
- Efforts by intergovernmental institutions such as PUICA and regional human rights organizations like the IACHR to foster dialogue and technical cooperation with the different state institutions on LGR

Honduras

1. General Context

Honduras has a population of approximately 9.7 million people.[120] Poverty remains a significant issue in the country. According to revised official poverty estimates from the World Bank in 2022, about 48.3 percent of Hondurans, equivalent to 4.3 million people, live below the national poverty line. According to the Economic Commission for Latin America and the Caribbean (CEPAL), Honduras is considered the second poorest country in Central America. Much of the violence in Honduras can be attributed to criminal gang activity.

The threat to democracy in Honduras has been an ongoing concern fueled by various factors. One of the main challenges the country is facing is the history of violence against LGBT individuals, particularly by those in positions of power such as the police. Politicians have largely ignored this violence, leading to a lack of accountability and justice for victims.

Xiomara Castro, president of Honduras (left); Nadia Mejía, lawyer of Red Lésbica Cattrachas, who litigated the case of *Vicky Hernández v. Honduras* (center); and Indyra Mendoza, Cattrachas coordinator (right). ©Red Lésbica Cattrachas

In 2009, Honduras experienced a coup, resulting in the sitting president's ousting and his replacement by an interim government; and according to civil society data, this was one of the moments of most violence against LGBT people.[121] Further, according to TGEU, 115 trans people were murdered between 2008 and 2022 in Honduras.[122]

In the words of a Gabriela Redondo, trans human rights defender, "the nonrecognition of gender identity is the 'mother' [originating violation] of the different situations of discrimination, risk, vulnerability and defenselessness for trans and nonbinary people. Since by not recognizing the initial right of a person to a name and an identity, [the State] practically denies trans people their right to life, they cannot enjoy constitutional guarantees like other citizens, they do not have access to education, to work, to comprehensive health care. . . . In the justice sector there is impunity for cases committed against [trans] people because there is no self-identification to guarantee demand and access to justice."[123]

In 2022, Xiomara Castro became the first female president of Honduras. Castro has pledged to make significant changes to support LGBT rights and improve the lives of communities and groups that have been historically subjected to discrimination. However, it remains to be seen how successful she will be in implementing these reforms and addressing the root causes of violence and discrimination in the country, as well as fully implementing the ruling in the case of *Vicky Hernández v. Honduras* issued by the IACHR. Despite these challenges, Honduras' civil society is well organized and actively collects data on violence against LGBT people.

2. Normative Framework on LGR (and SOGI)

In the last decade there have been some positive developments by the State of Honduras in their attempt to address violence and discrimination against LGBT people. For example, in 2013, the Civil Code was amended to provide legal protection against discrimination based on SOGI. In 2015, the State adopted the "National Gender Health Policy," which, according to the government, established clear principles regarding the guarantee of nondiscrimination on the basis of sexual orientation or gender identity.[124] In 2013, the government established a unit to investigate deaths of "high social impact" within the Prosecutor's Office , which was in charge of following up on killings of LGBTI people.

Further, in 2018, the State informed the IACHR of several actions taken by the National Human Rights Commission (CONADEH), in the following terms: "CONADEH created the Office for the Defense of Sexual Diversity, which promotes issues relating to the enjoyment of the rights of the LGBTI population, including training for the National, Military and Municipal Police in order to reduce stigma and discrimination. In this regard, between 2014 and 2017, the National Human Rights Commission (CONADEH) conducted 265 courses for officials of the Security Forces on human rights, gender identity and sexual orientation, with the participation of 6,625 officials."[125] Likewise, as reported by the IACHR, upon CONADEH's request, the LGBT Access to Justice Consortium (*Mesa de Acceso a la Justicia LGBT*)[126] was reinstated as of May 2017 with the purpose of clarifying hate crimes and establishing strategic actions to prevent violence against LGBT people.

Finally, although trans people can change their name, no legal provisions exist in Honduras for trans individuals to change their gender on official documents. PUICA has provided assistance and trainings to the registry, but, despite these trainings, there are still many cases of discrimination against trans people by public servants.

3. Impact of AO 24/17 and the *Vicky Hernández v. Honduras* Judgment

On March 26, 2021, the I/A Court issued its first decision regarding the murder of a trans woman and the lack of due diligence in the investigation, which was also the first one on LGBT rights in general in Honduras: a landmark ruling in the killing of Vicky Hernández, a trans woman, sex worker, and human rights defender.[127] She was found dead with a head-shot wound during a 2009 curfew imposed after a military coup. The investigation into her death was not conducted diligently, and her family's rights to due process and judicial protection were violated. The case occurred in a context of violence and discrimination against LGBT people, particularly transgender sex workers, who were often victims of violence involving police officers. These officers were not held accountable for their actions. The circumstances surrounding Hernández's death remain unclear. In its ruling, the Court recognized that LGBT people have historically suffered discrimination, violence, and violations of their fundamental rights. The Court found that Hernández was most likely killed by state agents. The Court concluded that the State of Honduras was responsible for violating Hernández's right to life and the rights to equality, nondiscrimination, and judicial guarantees and protection.

The Court ordered that the State of Honduras undertake the following reparations: i) publishing the I/A Court's decision; ii) promoting and continuing investigations into the murder of Vicky Hernández; iii) undertaking a public act of acknowledgment of international responsibility; iv) granting a scholarship to Argelia Johana Reyes Ríos, niece of Vicky Hernández; v) creating an audiovisual documentary on the situation of discrimination and violence experienced by trans women in Honduras; vi) creating a "Vicky Hernández" educational scholarship for trans women; vii) creating and implementing a permanent training plan for agents of state security forces; viii) adopting a procedure for recognizing gender identity that allows individuals to adjust their identity data in identity documents and public records per their self-perceived gender identity; ix) adopting a protocol for investigating and administering justice during criminal proceedings for cases of LGBTI victims of violence; x) designing and implementing a system for collecting data related to cases of violence against LGBTI people; and xi) paying the amounts set out in the ruling covering reparations, and other associated costs.

The Vicky Hernández ruling dictated an important step. The State of Honduras has begun moving in the right direction regarding compliance with the reparations; an apology has been issued by the president and, more recently, Vicky Hernández educational fellowships have been created for trans women. Further, the Ministry of Security and Red Lésbica Cattrachas are working on a joint venture to collect data on violent acts against LGBT people.[128] The decision mentions PUICA and the importance of working with this OAS body. Following the publication of the decision, particularly on the issue of gender identity recognition, the RNP (Registro Nacional de las Personas) issued a statement in May 2022, indicating that it will comply with the decision and will establish a process to allow trans people to rectify their documents to accord with their gender identity.[129] However, as of June 2023, compliance by the State of Honduras with the I/A Court's ruling to adopt a procedure for recognizing gender identity that allows individuals to rectify their documents was still pending.

4. The Opposition

Historically, opposition to LGBTQ rights in Honduras has been very strong. This is in part due to the strong influence of the Catholic and Evangelical churches in all branches of government. A 2017 civil society organization report "revealed the heavy influence of conservative religious values on media outlets and within political parties, leading to the dissemination of prejudice and messages of hate

toward LGBTQ political candidates and community. Similarly, the possibility of established/traditional political parties presenting LGBTQ candidates was negatively influenced by the Catholic Church and the Evangelical Confraternity."[130]

In October 2004, the conservative Congress amended the Constitution of Honduras to prohibit same-sex marriage and adoption by same-sex couples, through Legislative Decree 176-2004.[131] On March 15, 2018, Cattrachas filed a challenge before the Supreme Court alleging the unconstitutionality of this decree. On April 22, 2021—that is, three years after AO 24/17—the Supreme Court (Constitutional Chamber) affirmed that the constitutional amendment was constitutional, and that it could not incorporate AO 24/17 standards into domestic law, because this interpretation by the I/A" Court was not what was intended by the original drafters of the American Convention.[132] Further, to do so would require undertaking a constitutional reform. The decision also discussed gender identity recognition. Further, on January 21, 2021, Congress issued Legislative Decree 192-2020, by which the 2/3 quorum needed to amend these same articles was changed to 3/4, making it much harder to amend. In February 2021, Cattrachas filed a legal challenge before the Supreme Court against this decree. Judges from the Constitutional Chamber have changed since April 2021. The decision on this second litigation is still pending.[133]

Opposition to trans rights is increasingly coming from women's rights defenders. Trans-exclusionary narratives were included by Judge Odio in her dissenting vote in the Vicky Hernández case. In Odio's partially dissenting vote, she argued that trans women's rights should not be considered under the protection afforded by the regional treaty punishing violence against women, the Belém Do Pará Convention.[134] She went on to write a subsequent dissenting vote in Advisory Opinion 29, on the section pertaining to the rights of LGBT people deprived of liberty. In it she affirms, without any substantiating evidence, that "transsexual people who self-identify as women" rape and impregnate cisgender women.[135]

5. Recommendations from Activists on the Way Forward

Organizations interviewed expressed the need for Arcus to support:

- Sustained advocacy for passing a gender identity law in Congress
- Specific actions to ensure access to LGR, such as advocacy before different government institutions to incorporate the standards and uphold the reparations issued in the Vicky Hernández ruling by the I/A Court, including continued collaboration and dialogue with the RNP
- Collaboration with trans organizations and collectives who were not a part of the litigation in the case of Vicky Hernández, and fund them directly, without intermediaries
- Continued advocacy at the executive and legislative branches of government for public events at the presidential palace and Congress until there is LGR in Honduras
- Data collection on violence and discrimination against trans people
- Continued engagement with the government of President Xiomara Castro, to advance LGR and recognition of the rights of LGBT people, in general
- Continued funding for actions to guarantee economic and social rights, including access to healthcare, employment, and education, without discrimination on the basis of gender identity or expression
- Efforts of intergovernmental institutions such as PUICA and regional human rights organizations like the IACHR to foster dialogue and technical cooperation with the different state institutions

Mexico

1. General Context

As of 2021, Mexico had an estimated population of 136.7 million. Mexico struggles with high poverty levels, with 23 percent living on less than US$5.50 per day.[136] The political party currently in power in Mexico is Morena (Movimiento Regeneración Nacional), which made Andrés Manuel López Obrador (AMLO) president. The party describes itself as being a social movement party of the nationalist left.[137] Their political power has been slowly rising, and in 2022 Morena was viewed favorably nationwide at a 60 or 70 percent level.[138]

AMLO, a former mayor of Mexico City, has said he does not support same-sex partnerships,[139] and has expressed that equal marriage is not a priority.[140] According to a local civil society organization, 22 legal actions were made by Morena representatives between 2020 and 2022 regarding the rights of LGBT people.[141] AMLO has positioned himself as a president for the working class[142] with a perspective of helping largely poor, middle-class, and religious groups, and not necessarily groups that have been traditionally subjected to discrimination, such as LGBT people.[143]

Violence and discrimination against trans people are highly prevalent in Mexico. In the words of a local trans activist:

"There are structural barriers that hinder the effective access to political, economic, and cultural rights of the trans population. The lack of legislative harmonization allows the rights of trans people in Mexico to be systematically violated. We are a sector of the Mexican population whose harsh reality is marked by violence, discrimination, criminalization, stigma, and social exclusion. Within the LGBTTTIQ+ community itself and in the general population, we are seen as people who do not deserve rights like any other person."[144]

In 2020, the Williams Institute at the UCLA School of Law released a report on public opinion about trans rights. The responses were positive toward the trans population: 71 percent of those surveyed stated that Mexico is tolerant towards the trans population, and 66 percent wanted more protection for them.[145] However, Mexico is among the countries with the highest rates of murder of trans people.[146] The data collected highlights the increase in cases reported and how, for the past 20 years, up to 50 trans people have been murdered each year on average. According to the Trans Murder Monitoring Map project, 649 trans people were killed in Mexico between 2008 and 2022.[147]

Normative Framework on LGR (and SOGI)

As a federal country, Mexico has a complex political system involving power distribution between the federal government, and 31 states and Mexico City (CDMX).[148] Thus, when discussing issues related to LGR and LGBTQ rights in Mexico, it is important to note that the legal landscape and political attitudes may differ across states.[149]

This may add complications in terms of varying degrees of LGR across the states, but it also provides opportunities to progress locally in instances where there are obstacles at the federal level. As has been pointed out by the OAS, "the registry and identification work in Mexico is divided between public institutions belonging to different levels of government; civil registry tasks are carried out by the governments of the states and, sometimes, by the municipalities, while the identification function is assigned to the federal government, which oversees assigning the unique population identifier. . . . Therefore, the full recognition of gender identity in Mexico is a shared obligation between the different orders of government."[150]

Jessica Marjane Durán participates in a June 2023 protest by trans youth in Mexico City supporting the rights of Indigenous Peoples. ©Jessica Marjane Durán

At the federal level, and since the mid-2010s, Mexico has been moving toward more social inclusion of LGBT people and upholding the principle of nondiscrimination. For example, the National Council for Preventing Discrimination (CONAPRED) launched a campaign against SOGI-based discrimination,[151] and published several protocols on access to healthcare without discrimination on the basis of SOGI in 2017.[152] The Supreme Court also issued a protocol in 2015[153]—updated in 2022[154]—to guide judges and other agents within the justice sector across the country on principles of SOGI nondiscrimination in the adjudication of cases.[155] On the issue of nondiscrimination on the basis of sexual orientation, the decision by the Nuevo León Congress on June 14, 2023, means that same-sex marriage is now legal in all 32 federal entities in Mexico.[156]

The Supreme Court of Mexico has issued several decisions regarding the right to nondiscrimination and its intersection with SOGI. Most notably, the Supreme Court issued its first decision on these matters, ruling 1317/2017, in 2015.[157] Then, in November 2019, the Supreme Court issued a landmark judgment, settling a dispute between two conflicting lower courts' decisions and affirming that people have the right to have their name, gender marker, and photograph changed to reflect their gender identity, which must be done through an administrative process that "meets the standards of privacy, simplicity, expeditiousness, and adequate protection of gender identity" established by the IACHR.[158]

At the federal level, also, Mexico has approved a directive that allows trans people to rectify their personal data on passports, done through consulates outside of the country.[159] Reportedly, there have already been approximately 500 trans people who have benefited from this procedure.[160] When people return to their states of origin, they have LGR, so the civil registries enter the corrected information into their systems. Further, though there have been attempts to pass a gender identity law, there has been limited real interest and political will to pass it in the Federal Congress. For example, in 2021, one bill was presented for trans youth,[161] yielding no results to date.

In 2015, CDMX was the first regional authority in the country to pass legislation allowing the recognition of self-perceived gender identity through an administrative and nonstigmatizing procedure. This important step has had an impact on LGR in states throughout Mexico. As pointed out by the OAS, "the legislation adopted in Mexico City, through the reform of the Civil Code, has served as a reference for the rest of state legislation that to date has been approved in terms of recognition of gender identity."[162] Also in CDMX, there have been important developments, such as the 2021 law for the recognition and provision of care for LGBTTTI people in Mexico City,[163] which provides guidelines on the work to be developed by each local institution in the capital. There have also been other administrative achievements, such as when in 2022 a trans woman changed her name on her academic record at the National Autonomous University of Mexico (UNAM).[164]

Currently, 20 states (out of 31) and CDMX recognize the right of trans and other gender-nonconforming people to have their gender identity reflected in their legal documents. This process has been the result of a series of diverse actions through different avenues, such as litigation before the courts or legislation passed in local congresses. As explained by a local activist, "[the right to LGR] varies according to the local civil codes, so people in the country have two alternatives to carry out this process of gender ratification in official documents: in the entities where there are gender identity laws, it is only an administrative process; in the entities where it is not yet recognized, it implies a judicial process."[165]

In the remaining 10 states that do not guarantee this right, there have been some attempts to pass gender identity laws with varying degrees of success. Since the chances of guaranteeing this right through legislation by the local congresses are slim, actions to be developed involve legal challenges at the local courts and/or to access the Supreme Court or international litigation. This can be a lengthy and costly process that requires attorneys and significant financial resources.[166]

Because of the difficulties with legal name recognition, organizations such as Amicus DH have presented 50 *amparos* in Guanajuato and given legal advice where it is required. The cost of this process is about US$450 per case litigated and can take between 3 and 14 months. Of the cases taken on, about 45 percent obtained a new birth certificate in another state and needed it to be "validated" in Guanajuato.[167]

Out of the countries examined, Mexico is the only country that has allowed LGR for children. On March 3, 2022, the Mexican Supreme Court—examining the local law in the state of Puebla—established that setting a minimum age for LGR was unconstitutional.[168] Currently, five federal entities in Mexico allow minors to change their name: CDMX,[169] Jalisco,[170] Oaxaca,[171] Morelos,[172] and Nuevo León.[173]

MEXICAN STATES THAT ALLOW TRANSGENDER PEOPLE TO CHANGE THEIR NAMES OR GENDERS [174]

2015

CDMX
New birth certificates can be issued for recognition of gender identity. (OAS, 2021)

2017

Michoacán
Administrative processes are established for gender identity changes. (OAS, 2021)

2018

Nayarit
New birth certificates can be issued according with self-perceived gender identity. (OAS, 2021)

2019

Chihuahua
Birth certificates can be rectified to accord with self-perceived gender identity. (OAS, 2021)

Coahuila
An administrative process is established for the recognition of gender identity. (OAS, 2021)

Colima
New birth certificates can be issued according with self-perceived gender identity. (OAS, 2021)

Hidalgo
An administrative process is established for recognition of gender identity through issuance of a new birth certificate. (OAS, 2021)

Oaxaca
New birth certificates can be issued according with self-perceived gender identity. (OAS, 2021)

San Luis Potosí
Personal data can be rectified in civil status records to accord with self-perceived gender identity. (OAS, 2021)

Tlaxcala
New birth certificates can be issued according with self-perceived gender identity. (OAS, 2021)

2020

Jalisco
Data can be rectified to accord with self-perceived gender identity. (OAS, 2021)

Nuevo León
Birth certificates can be modified to accord with self-perceived gender identity. (OAS, 2021)

2021

Estado de México
Reform to the civil code allows trans individuals to rectify their documents to accord with their gender identity. (OAS, 2021)

Morelos
Rectification of gender is allowed on birth certificates. Link

Puebla
New birth certificates can be issued according with self-perceived gender identity. (OAS, 2021)

Quintana Roo
An administrative procedure is established for recognition of gender identity. (OAS, 2021)

Sonora
New birth certificates can be issued according with self-perceived gender identity. (OAS, 2021)

2022

Baja California
A gender identity law is passed. Link

Baja California Sur
A gender identity law is passed allowing change of name and sex on birth certificates. Link

Sinaloa
Gender identity changes are allowed on official documents. Link

Zacatecas
Gender identity changes are allowed on official documents. Link

On June 15, 2023, the Supreme Court issued a new decision recognizing "the special vulnerability of minors" and affirming that the procedures to modify their documents must have adequate safeguards. Further, it stressed "that the absolute prohibition of rectification of birth certificates finds no constitutional or conventional justification."[175] This decision effectively struck down provisions in the local laws on civil registries in Jalisco, Oaxaca, and the state of México.[176] Even if children's right to LGR has been recognized, there is a lot of work that needs to be done in the education sector, as there have been multiple cases of discrimination against trans children in schools.[177] There is much need for trainings and campaigns to raise awareness so "officials at the educational centers have proper knowledge, resulting in children making this change without any administrative repercussions."[178]

Mexico is one of the few countries in the region that has made some progress in terms of gender identity recognition for nonbinary persons. In February 2022, thanks to an *amparo* filed by Amicus DH, the civil registry of the State of Guanajuato granted legal recognition to a nonbinary person for the first time in Mexico.[179] On May 17, 2023, the federal government in Mexico issued its first passport to a nonbinary person.[180] According to a 2021 study surveying 35,000 LGBTQ+ identified people between the ages of 13 and 24, one in four identify outside of the male/female binary.[181] Thus, recognition of nonbinary identities in legal documents could become increasingly significant in Mexico, given the large population that potentially needs their nonbinary identity to be reflected in their legal documents. One of the arguments that can be made to further advance LGR for nonbinary people is that being nonbinary is just another component or manifestation of nonconforming gender identity.[182]

3. Impact of AO 24/17

Regarding the impact of AO 24/17 in Mexico, an activist argues that it marked "a before and an after" in the recognition of trans people's gender identity at the domestic level. This became evident in at least three aspects.[183] First, although domestic courts had already issued decisions in favor of the recognition of gender identity before January 2018, the adoption of AO 24/17 significantly accelerated and simplified this process. Second, the civil registries' directors who were willing and open to rectifying the documents, now had the required "backup" to be able to do it, without as much hesitation or fear. Third, it has become one of the most well-known international human rights decisions among trans and LGBT civil society organizations and activists, who have used it significantly to support advocacy efforts.

4. The Opposition

Opposition in Mexico is very strong. There are several organizations, groups, state officials, and legislators who oppose trans and LGBTQ rights. Further, AMLO has been criticized for having a strong alliance with Evangelical groups, including some coming from the U.S., which have carried out multiple meetings and sessions with members of local Congresses to learn how to "legislate with the Bible."[184]

In addition to traditional opposition coming from anti-rights groups, among the biggest threats to advancing the rights of trans people in Mexico comes from the women's rights movement itself, through narratives from so-called trans-exclusionary radical feminists (TERFs),[185] which have a strong voice in academia in Mexico, and have have been afforded highly visible platforms to spread their anti-trans stances, such as events at UNAM.[186] In addition to having much echo in Mexico, direct links between these anti-trans actors and anti-LGBT and opposition groups who oppose sexual and reproductive rights have been identified and are of extreme concern.[187] Links between feminists and anti-rights groups have been identified previously in other countries. For example, during the 2021 discussion of the transgender law in Spain, notorious anti-sexual and anti-reproductive rights and hate group Citizen Go (Hazte Oír) held an event where the main speaker was Lidia Falcón, president of the Feminist Party in Spain.[188]

5. Recommendations from Activists on the Way Forward

Organizations interviewed expressed the need for Arcus to support:

- Litigation in the states where LGR is not yet in place; ideally, funds would be allocated specifically to those states, even if there are no local organizations that are current grantees of Arcus in those states, or if they are not legally incorporated or constituted
- Intentional incorporation of children and youth in LGR efforts, noting that there have been attempts to criminalize people who support trans children and youth; legal arguments for this group require strengthening
- LGR for nonbinary people. The suggested actions would be through RENAPO (Registro Nacional de la Población) and INE (Instituto Nacional Electoral)
- The strategy to promote trans leadership in politics, and have trans people elected as members of Congress
- Funding for LGR efforts that are led by trans people. From an interviewee in Mexico: "It is important that Arcus knows the different realities that make up the country,

and bet on the support and community empowerment of organizations led by trans people as well as the different trans leadership, since currently the support or financing generally falls on organizations not led by trans people or that have nonhorizontal direction processes"

- Efforts of intergovernmental institutions such as PUICA and regional human rights organizations like the IACHR to foster dialogue and technical cooperation with the federal government, the different state institutions, and local state authorities
- LGR through intersectional approaches for children, migrants, and persons deprived of liberty, among others. Regarding the rights of trans people deprived of liberty, although there are efforts underway, these are not deployed at a national level and are rather focused primarily in CDMX
- Understanding that recognition of the right to identity transcends obtaining legal documents, such as birth certificate or voting credentials; its importance extends to work experience, school, sports competitions, among others. This, for example, in the case of legal defense organizations, would imply opening of new avenues for litigation for people who already have documents but continue to face barriers when accessing services and other rights
- Evaluating data collection efforts and projects, specifically those that involve governments to include gender identity variables
- Funding a project that involves ALL the organizations in the region that are recipients of funds in a narrative-building strategy to deal with the opposition because advocacy and litigation are not going to be enough. Funding to win public opinion, because opposition groups' narratives are increasingly compelling to the general population

VI. Conclusions & Recommendations

There have been both progress and challenges in LGR and the overall protection of LGBT rights in the four countries examined since January 2018 when AO 24/17 was published.

Most notably, progress has been significant in **Mexico**, where several initiatives were well underway before the advisory opinion was published; AO 24/17 came to expedite political and judicial processes at the domestic level, particularly at the state level. Also, Mexico stands out for its LGR progress for trans children and nonbinary persons. There have also been some limited but promising developments in **Honduras**, thanks to the Vicky Hernández judgment by the I/A Court, which mandated the State of Honduras to allow LGR for trans people; and in **El Salvador**, mostly through litigation that ended in a very favorable decision by the Supreme Court, which called on Congress to legislate on gender identity recognition. Progress in **Guatemala** has been minimal, and the anticipated outcome of the June 2023 presidential and congressional elections, amid high political instability and a highly controversial electoral process, does not look favorable to advancing LGBT rights, let alone LGR. Also, El Salvador and Guatemala stand out for the wrong reasons: the several measures have been adopted to regress on LGBT rights in the last few years, as both the Bukele and Giammattei administrations have been very intentional in eliminating safeguards and protections for LGBT people and, overall, reducing civic space, backsliding on separation of powers and the rule of law, and curtailing fundamental human rights.

Further, opposition groups and narratives are present in all four countries, although in differing degrees of prevalence. For example, public opinion is considerably more favorable toward LGBT people in Mexico than in Guatemala. Also, trans-exclusionary narratives are gaining momentum and stronger support at national and regional levels, which could potentially become, if left unattended, a bigger threat and roadblock to progressing toward greater inclusion and protection for trans people, particularly as it pertains to LGR, access to healthcare (including gender-affirming care), and nondiscrimination in school settings and sports.

Also, attention should be given to the role of the IACHR and OAS PUICA in furthering LGR progress, by fostering cooperation and dialogue with different state actors and entities; however, this attention should not take away from the support to traditionally underfunded civil society organizations.

An important finding of this report is also the need to strengthen an intersectional approach to LGR, being specific and intentional about incorporating intersecting forms of discrimination on the basis of gender identity and expression, with ethnicity, race, age, deprivation of liberty, socioeconomic status, and migration status, among others. Further, it is important to highlight that while organizations and networks advancing the rights of trans women have a long trajectory and experience of collaborating at the domestic and regional levels in the countries under study and in Latin America in general, there are increasingly more visible activists, organizations, and networks of trans men and gender-nonconforming people assigned female at birth, emerging since around 2013, which should be supported independently.

This report shows that in all four countries examined, civil society organizations and activists have played a key role in advancing and securing LGR for trans people and other gender-nonconforming persons. In fact, progress has been made possible largely *because* of the work of domestic and regional organizations and activists. Also, where progress has been limited, activists have played a crucial role in preventing further backsliding. Continued support to nongovernmental organizations, activists, and human rights defenders locally and regionally is absolutely key, not just for LGR but for holding states accountable for their obligation to guarantee and respect human rights for all without discrimination.

[1] The report was prepared by **Fanny Gómez-Lugo** and **Michelle Jones Pérez. Fanny (she/her)** is a feminist queer lawyer and activist from Venezuela, but living in the U.S. She has been an adjunct professor at Georgetown University Law Center since 2012, teaching courses on LGBTQI+ rights and sexual and reproductive rights. She is Director of Research and Advocacy at the Women's Equality Center. She is a member of the international advisory board at the Astraea Lesbian Foundation. Between 2007 and 2016, she worked at the IACHR, primarily at the rapporteurships on the Rights of LGBTI People and on the Rights of Women. Between 2016 and 2019, she was Senior Director for Advocacy and Policy at Synergía—Initiatives for Human Rights. Views expressed here are her own. **Michelle (she/her)** is a lesbian feminist and activist from Costa Rica. She has a BA in anthropology and a master's in geography. She has been a university professor at various universities in Costa Rica since 2013. She is the founder of Arrecife, an organization dedicated to research, data, and education. She has belonged to and currently belongs to various organizations in Costa Rica as well as regional networks in Latin America and the Caribbean. She looks to create initiatives that use technology and data for research and technical assistance for the groups she participates in.

[2] Since 2012, the I/A Court has issued a number of decisions at the intersection of human rights and SOGI in the Americas. On February 15, 2012, in *Karen Atala v. Chile* (2012), the I/A Court established for the first time that SOGI are protected categories of nondiscrimination under the American Convention, meaning states have the obligation to respect and guarantee the human rights of everyone under their jurisdiction and, in doing so, cannot discriminate against people on the basis of SOGI. There have been a number of decisions after the landmark *Atala v. Chile* judgment, including on the pension system for same-sex couples (*Duque v. Colombia*); criminalization of same-sex intimacy in the armed forces and employment discrimination (*Flor Freire v. Ecuador*); rape as torture (*Rojas Marin v. Peru*); employment discrimination regarding a lesbian school teacher of religious studies (*Pavez v. Chile*); killing of a trans woman, sex worker, and human rights defender and the ensuing lack of adequate investigation (*Vicky Hernández v. Honduras*); and the most recent one, published in April 2023, regarding the "right to refuse" service to a gay couple (*Olivera v. Peru*).

[3] I/A Court H.R., Advisory Opinion OC-24/17 of November 24, 2017, requested by the Republic of Costa Rica "Gender Identity, and Equality and Non-discrimination of same-sex couples State obligations concerning change of name, gender identity, and rights derived from a relationship between same-sex couples (interpretation and scope of Articles 1(1), 3, 7, 11(2), 13, 17, 18 and 24, in relation to article 1, of the American Convention of Human Rights)." November 24, 2017, para. 54.

[4] Ibid.

[5] Ibid., para. 113.

[6] Ibid., para. 131. See also, Coalition of LGBTTTI organizations from Latin America and the Caribbean working within the framework of the OAS, Summary of Advisory Opinion 24/17 issued by the I/A Court of Human Rights, March 2018.

[7] I/A Court H.R., Advisory Opinion 23/17: The Environment and Human Rights, November 15, 2017, para. 28. Footnotes omitted.

[8] The IACHR has established thematic rapporteurships in different areas, such as women, migrants, children, persons deprived of liberty, Indigenous peoples, human rights defenders, afro-descendants, and persons with disabilities, among others. Except for the two special rapporteurships—on freedom of expression, and economic, social, and cultural rights, which are led by rapporteurs who are not sitting commissioners—the seven commissioners lead the different rapporteurships.

[9] More information about the LGBTI rapporteurship and its origins can be found here.

[10] According to the information received during the interviews for the drafting of this report, the IACHR is now in the process of updating two reports that were released in previous years: *Violence against LGBTI People* and *Recognition of the rights of LGBTI people*. The IACHR is also working on a report on intersex rights.

[11] Roberta Clarke, Manuel Canahui, Ernesto Zelayalandia and Jeshua Bardoo. Online interview. May 4, 2023.

[12] Angelina de los Santos, Conservatives could take over key inter-American human rights body, Open Democracy, June 21, 2023.

[13] Commissioner Ralón dissented from the IACHR in the 2020 thematic Report on Trans and Gender-Diverse Persons and their Economic, Social, Cultural, and Environmental Rights, August 7, 2020. His dissenting opinion was not included in the IACHR's report. Rather, it is referred to in https://drive.google.com/file/d/1jtlWOrdyWjJeWDRsFILdX-cAOED8_g7D/view, May 31, 2023, p. 43.

[14] Commissioner Stuardo Ralón got reelected with 24 votes, making him the second most voted candidate. There were six candidates to fill four slots. Lidia Casas, a progressive academic and activist from Chile, lost by one vote (she obtained 19 votes). The least voted candidate was Pier Pigozzi, a very anti-rights lawyer from Ecuador (with 9 votes). For an analysis of the six candidates' profile, see https://drive.google.com/file/d/1jtlWOrdyWjJeWDRs-FILdX-cAOED8_g7D/view, May 31, 2023.

[15] OAS General Assembly Resolution AG/RES.2362 (XXXVIII-0/08). OAS, Informe del Mecanismo de Cooperación Interamericano para la Gestión Pública Efectiva (MECIGEP), solicitado por México: Reconocimiento Integral de la Identidad de Género, March 2020, para. 1.

[16] OAS, PUICA.

[17] Ibid.

[18] OAS, Informe del Mecanismo de Cooperación Interamericano para la Gestión Pública Efectiva (MECIGEP), solicitado por México: Reconocimiento Integral de la Identidad de Género, March 2020, para. 2.

[19] According to PUICA, "having documents that do not reflect one's identity is equivalent to their nonexistence, and therefore . . . not adapting the records and identification documents to the self-perceived gender identity of any person is a form of under-registration and a violation of the rights to personal identity, legal personality, name, free development of personality, equality and nondiscrimination, private life, among others." OAS PUICA, Reconocimiento Integral de la Identidad de Género: Informe del Mecanismo de Cooperación Interamericano para la Gestión Pública Efectiva (MECIGEP), solicitado por México, March 2020, para. 3.

[20] The project, which ran between 2019 and 2023, was entitled "Strengthening the access of civil registry institutions to knowledge and good practices for the recognition of self-perceived gender identity in identity documents," and was sponsored by the Spanish Agency of International Cooperation for Development (AECID). According to PUICA, "through increasing knowledge of inter-American standards and international human rights related to the right to self-perceived gender identity recognition among civil registries in the region, as well as providing them with access to good practices, individual stories, experiences and recommendations from their peers, OAS Member States will be better equipped to lead changes in their policies, internal processes and procedures, in order to promote the legal recognition of identity of self-perceived gender in their respective jurisdictions." OAS PUICA, Reconocimiento Integral de la Identidad de Género: Informe del Mecanismo de Cooperación Interamericano para la Gestión Pública Efectiva (MECIGEP), solicitado por México, March 2020, para. 6.

[21] Juan Pablo Delgado. Amicus DH, Mexico. Online interview. March 2, 2023; Jessica Marjane. Juventudes Trans. Online interview. March 10, 2023; Stefano Fabeni and Marcelo Ferreyra. Synergía—Initiatives for Human Rights. Online interview. March 17, 2023.

[22] Manuel Canahui, officer at the Executive Secretariat of the IACHR. Online interview. March 15, 2023.

[23] Local trans activists conveyed this information to officials from PUICA,

OAS. Rebeca Omaña, PUICA, OAS. Online interview. May 3, 2023. See also testimony from Grecia Flores, trans activist from Honduras, signaling these positive developments.

[24] Anyone in Guatemala, trans or cis, is able to change their name in their national ID. Stacy Velásquez. OTRANS-RN, Guatemala. Online interview. March 15, 2023.

[25] US Department of State, 2022 Country Reports on Human Rights Practices: El Salvador; see also Amnesty International, El Salvador: President Bukele engulfs the country in a human rights crisis after three years in government, June 2, 2022.

[26] Reuters, Political clash erupts in El Salvador as Congress votes out judges, May 2, 2021.

[27] HRW, El Salvador: Legislature Deepens Democratic Backsliding, November 1, 2021.

[28] Marcos Aleman, El Salvador court drops ban on presidential reelection, AP News, September 4, 2021; Transparency International, El Salvador: Decisions Undermining Independence of Justice Institutions Should be Revisited, AP News, May 3, 2021.

[29] See, for example, the information gathered by CeDoSTALC (Centro de Documentación y Situación Trans en Latinoamérica y el Caribe), a project of ASPIDH (Acción Solidaria para Impulsar el Desarrollo Humano) and RedLacTrans in El Salvador, which documents human rights violations against trans people. RedLacTrans, "No Muero, ¡Me Matan!" – Informe CEDOSTALC 2021 – El Salvador, March 2022.

[30] El Faro, Un año de Militar de excepción: se consolida un estado Militar y policial, June 16, 2023, see also Amnesty International, El Salvador: El estado de excepción ha creado una tormenta perfecta de violaciones de derechos humanos, April 25, 2022.

[31] Agencia Presentes, El Salvador 2022: el Régimen de excepción recrudeció vulneración a derechos LGBT+, December 22, 2022.

[32] Ernesto Valle, El Salvador police officers sentenced to 20 years for killing trans woman, Washington Blade, August 1, 2020.

[33] Red Latinoamericana y del Caribe para la Democracia, Alert El Salvador: Presidente Bukele Stigmatizes the IACHR, November 16, 2022.

[34] Reuters, Human rights body urges El Salvador to restore civil rights, April 6, 2023.

[35] Joshua Navas, Generación HT El Salvador. Online interview. March 8, 2023.

[36] TGEU, Trans Murder Monitoring Map, September 2022.

[37] "In 2015, the Legislative Assembly recognized the gravity of these crimes and modified the Penal Code to include killings motivated by hate, including on the basis of a person's sexual orientation or gender identity, as aggravated homicides." Cristian González, Justice for LGBT Salvadorans Requires Reckoning with Hate, HRW, April 11, 2020.

[38] Agencia Presentes, El Salvador no protege a las personas LGBTIQ+ despedidas por discriminación, November 29, 2021.

[39] Neela Ghoshal, No Safe Haven for LGBT People in El Salvador, HRW, January 8, 2021.

[40] IACHR, Situation of Human Rights in El Salvador, October 14, 2021, para. 230.

[41] IACHR, IACHR presents its preliminary observations following its in loco visit to El Salvador, December 27, 2019.

[42] Bianka Rodríguez, COMCAVIS Trans. Online interview. March 15, 2023; Joshua Navas, Generación HT El Salvador. Online interview. March 8, 2023; Britany Monserrat Castillo Lovo, ASPIDH. Online interview. March 10, 2023.

[43] Alessia Genoves, Karla Guevara: Primera mujer trans en cambiar nombre y género, Nodal, September 19, 2022.

[44] Bianka Rodríguez, COMCAVIS Trans. Online interview. March 15, 2023; Britany Monserrat Castillo Lovo, ASPIDH. Online interview. March 10, 2023.

[45] Joshua Navas, Generación HT El Salvador. Online interview. March 8, 2023.

[46] The work done at a country level is part of the regional effort of trans networks: the REDCAHT+ and the RedLacTrans.

[47] Joshua Navas, Generación HT El Salvador. Online interview. March 8, 2023.

[48] Britany Monserrat Castillo Lovo (ASPIDH). Online interview. March 2023

[49] IACHR, Transmisión de audiencia Derecho a la identidad de personas trans en El Salvador, March 10, 2023.

[50] IACHR, Summaries of Public Hearings: Annex to Press Release 41/23 on the 186th Period of Sessions, March 2023.

[51] Corte Suprema de Justicia, El Salvador. Sala Constitucional. February 2022, available (in Spanish only) here.

[52] Bianka Rodríguez, COMCAVIS Trans. Online interview. March 15, 2023.

[53] Corte Suprema de Justicia, El Salvador. Sala Constitucional. February 2022, available (in Spanish only) here, p. 15.

[54] HRW, El Salvador Fails to meet Deadline for Trans Rights Ruling, February 23, 2023.

[55] Ernesto Valle, Mesa por una Ley de Identidad de Género en El Salvador continua su lucha, Washington Blade, August 23, 2021.

[56] HRW, El Salvador Fails to Meet Deadline for Trans Rights Ruling, February 23, 2023.

[57] Bianka Rodríguez, COMCAVIS Trans. Online interview. March 15, 2023. See also, Swissinfo, ONG de El Salvador presentan ante la CIDH caso de Karla Avelar, mujer trans activista, May 17, 2023.

[58] Bianka Rodríguez, COMCAVIS Trans. Online interview. March 15, 2023; Joshua Navas, Generación HT El Salvador. Online interview. March 8, 2023; Britany Monserrat Castillo Lovo, ASPIDH. Online interview. March 10, 2023.

[59] For a detailed account of these litigations, including explanation of the strategy behind them, the reasoning by the judges, and the outcomes, see Gabriela Méndez, Se Busca Juez para Cambio de Nombre, Revista Gato Encerrado, November 22, 2022.

[60] Santa Ana is the second largest city in El Salvador, located at approximately 40 miles or 64 kilometers from San Salvador, the capital.

[61] Case of Monica Linares. Bianka Rodríguez, COMCAVIS Trans. Online interview. March 15, 2023.

[62] Evelyn Machuca, "Cuando me entregaron mi documento, sentí esperanza": Bianka Rodríguez, primera mujer trans en cambiar nombre en DUI, La Prensa Gráfica, March 22, 2022.

[63] Bianka Rodríguez, COMCAVIS Trans. Online interview. March 15, 2023.

[64] Menly Cortez, ¿Quién es Aldo Peña, el primer hombre trans autorizado para el cambio de nombre en El Salvador?, ElSalvador.com, August 21, 2022.

[65] Joshua Navas, Generación HT El Salvador. Online interview. March 8, 2023.

[66] Ibid.

[67] Genoves, Karla Guevara: Primera mujer trans en cambiar nombre y género.

[68] Britany Monserrat Castillo Lovo, ASPIDH. Online interview. March 10, 2023.

[69] IACHR, Recognition of the Rights of LGBTI Persons, December 7, 2018, para. 247.

[70] France24, La Paradoja de Bukele: apoyo alto en su país y críticas a nivel internacional, June 1, 2022.

[71] CNN En Español, Gobierno de El Salvador dice que alcanzó 365 días sin homicidios, May 11, 2023. This was backed by a resolution from the National Assembly, voted by a majority of 64, see (in Spanish) https://www.asamblea.gob.sv/node/12771.

[72] IWGIA, The Indigenous World 2021: Guatemala, March 18, 2021.

[73] Amnesty International, Guatemala 2022. See also U.S. Department of State, 2022 Country Reports on Human Rights Practices: Guatemala. See also CIVICUS, Guatemala: Authorities continue to prosecute justice operators, February 27, 2023.

[74] WOLA, New Reports from U.S. Human Rights Organizations Raise Concern About Guatemala's Path Towards Authoritarianism, Call for Stronger U.S. Responses, October 6, 2022.

[75] HRW, Guatemala: End Arbitrary Exclusion of Candidates, March 31, 2023.

[76] Alex Castillo and Tristán López, Colectivo Trans-Formación Guatemala. Online interview. March 13, 2023.

[77] Stacy Velásquez. OTRANS-RN, Guatemala. Online interview. March 15, 2023.

[78] HRW, Guatemala: 3 Killings of LGBT People in a Week, June 22, 2021.

[79] See IACHR, Condena asesinato de Andrea González, mujer trans de 28 años, June 21, 2021; DW, Guatemala: Asesinan a Andrea González, dirigente LGBTIQ+, June 13, 2021. See also Synergía—Initiatives for Human Rights, Synergía and the Coalition LGBTTTI& TS working with the OAS deplore the killing of Andrea González, June 13, 2021. See also: US Embassy in Guatemala condemns killing of Andrea González.

[80] Kristhal Figueroa, Inicia el Juicio por el transfemicidio de Andrea González, RudaGT, March 7, 2023.

[81] TGEU, Trans Murder Monitoring Map, September 2022.

[82] Stacy Velásquez. OTRANS-RN, Guatemala. Online interview. March 15, 2023.

[83] RENAP, Protocolo para la atención de Usuarios del RENAP, March 14, 2016.

[84] REDMMUTRANS, Informe de Observación de Violencia Electoral y Participación Política de las personas Trans Guatemaltecas, December 6, 2019.

[85] NBC news, Associated Press, Guatemala Quietly Moving LGBTQ Rights Forward, May 17, 2016.

[86] For example, Rodas participated in several public events signaling his support of LGBT people. He has also denounced bills against LGBT people.

[87] Sonia Pérez, Another anti-graft figure leaves top post in Guatemala, AP News, August 18, 2022.

[88] Guatemala, Ministry of Health and Social Assistance, Estrategia Atención Integral y Diferenciada en Salud para Personas Trans en Guatemala 2016-2030, n.d.

[89] Saira Ramos, Pilar Salazar Argueta and Morena Perez Joachin, Cómo el Estado de Guatemala excluye del sistema sanitario a las personas trans, F4 Factor, March 19, 2012.

[90] Congreso de la República de Guatemala, February 18, 2018.

[91] Carlos Álvarez, Iniciativas opuestas causan polémicas en el congreso, Prensa Libre, August 29, 2018.

[92] in 2015, Sandra Morán made history by becoming the first openly LGBT person to be elected into Congress.

[93] Congreso de la República de Guatemala, August 22, 2017

[94] Article 3.1 of the "Manual of Procedure for the Registration of Change of Name, Identification of Person and Identification of a Third Party," Directory Agreement No. 27-2010 of the National Registry of Persons. See also IACHR, Recognition of the Rights of LGBTI Persons, December 7, 2018, para 103.

[95] Stacy Velásquez. OTRANS-RN, Guatemala. Online interview. March 15, 2023.

[96] Procurador de Derechos Humanos de Guatemala, Contribución al Experto Independiente de ONU sobre la protección contra la violencia y discriminación con base en la orientación sexual y la identidad de género, February 2019.

[97] Stacy Velásquez. OTRANS-RN, Guatemala. Online interview. March 15, 2023.

[98] As summarized by Synergía: Alex Jai López Cárdenas promoted a constitutional protection against the Mariano Gálvez University of Guatemala. López had asked the university to recognize his male gender identity by modifying his undergraduate degree, which was rejected by the Board of Directors of the university. On October 4, the First Civil Court of First Instance, granted the *amparo* and ordered the Mariano Gálvez University to proceed to modify López's diploma according to his male gender identity. Synergía filed an *amicus curiae* in this case, alleging the need to apply AO 24/17 standards. Synergía—Initiatives for Human Rights, Mediante Fallo Judicial se Reconoce la Identidad de Género de un Hombre Trans en Guatemala, October 13, 2021.

[99] Mundo Cristiano, Jimmy Morales: Guatemala cree en la familia basada en el matrimonio de hombre y mujer, March 19, 2018.

[100] COPREDEH is the Spanish acronym for Comisión Presidencial Coordinadora de la Política del Ejecutivo en materia de Derechos Humanos. Visibles and Colectivo Trans-Formación, Shadow Report, UPR, Guatemala, July 2020, para. 15.

[101] Tristán López, Atestiguar la feroz humanidad que nos habita: de cómo entender la lógica de guerra y contrarrestar los movimientos antigénero y antiderechos en Guatemala (accessed in May 2023), January 27, 2023.

[102] DW, Declaran a Guatemala "Capital Pro-Vida de Iberoamérica", March 10, 2011.

[103] RENAP, Servicios.

[104] Stacy Velásquez. OTRANS-RN, Guatemala. Online interview. March 15, 2023.

[105] Ibid.

[106] Congreso de la República de Guatemala, February 28, 2020.

[107] Nodal, Candidatos presidenciales se pronuncian contra el aborto y el matrimonio igualitario, May 2019.

[108] BBC, Guatemala Congress bans same-sex marriage, March 9, 2022.

[109] Amnesty International, Guatemala: Discriminatory law foments hate and puts lives, rights and families at risk, March 9,2022.

[110] IACHR, Recognition of the Rights of LGBTI Persons, December 7, 2018, para. 249.

[111] Cristian González Cabrera, Juan Pappier, "Life and Family" Bill is a Smokescreen for Corruption in Guatemala, HRW, March 15, 2022.

[112] Jody García and Natalie Kitroeff, In Reversal: Guatemala Shelves Anti-Abortion Law, *New York Times,* March 15, 2022.

[113] Tristán López, Atestiguar la feroz humanidad que nos habita: de cómo entender la lógica de guerra y contrarrestar los movimientos anti-género y anti-derechos en Guatemala, January 27, 2023.

[114] Congreso de la República de Guatemala, September 15, 2021.

[115] HRW, Guatemala: Anti-Trans Bill Threatens Rights, January 24, 2022.

[116] Alex Castillo and Tristán López, Colectivo Trans-Formación Guatemala. Online interview. March 13, 2023.

[117] AFI Guatemala, Carta Abierta al señor procurador de los derechos humanos, Jordán Rodas Andrade, June 30, 2022

[118] Visibles and Colectivo Trans-Formación, Shadow Report, UPR, Guatemala, July 2020, para. 13.

[119] Stacy Velásquez, OTRANS-RN, Guatemala. Online interview. March 15, 2023.

[120] Government of Honduras, Estadísticas INE.

[121] IACHR, Situation of Human Rights in Honduras, August 27, 2019, para. 275 and ff.

[122] TGEU, Trans Murder Monitoring Map, September 2022.

[123] Gabriela Abigail Redondo, Colectivo Unidad Color Rosa (CUCR), Honduras. Online interview. March 15, 2023.

[124] IACHR, Recognition of the Rights of LGBTI Persons, December 7, 2018, para. 167.

[125] Ibid., para. 200.

[126] The LGBT Access to Justice Consortium ("Mesa de Acceso a la Justicia LGBT") was established in 2016. This initiative, "made up of the various organizations for the defense of LGTBIQ+ rights in Honduras, was created with the purpose of clarifying hate crimes and establishing common strategies to prevent and respond to violence faced by the collective of sexual diversity in the region. The National Table is a plural space made up of organizations of sexual diversity, national authorities and the international community." Pbi Honduras, Mesa de Acceso a la Justicia LGTB, contra la discriminación e impunidad, May 2021.

[127] I/A Court H.R., *Vicky Hernández et al. v. Honduras*, March 26, 2021.

[128] Indyra Mendoza and Larissa Velásquez, Red Lésbica Cattrachas. Online interview. March 13, 2023.

[129] Prensa TNH5, RNP permitirá el cambio de nombre a personas trans en Honduras, May 17, 2022.

[130] Red Lésbica Cattrachas, The Secular State and Religious Fundamentalism, cited in Arcus Foundation, The Safety, Legal Protections and Social Inclusion of LGBTQ People in Central America in 2018, March 2020.

[131] IACHR, Recognition of the Rights of LGBTI Persons, December 7, 2018, para. 247.

[132] Sala Constitucional, Corte Suprema de Justicia, Recurso de Inconstitucionalidad SCO-0233 and 942-2018. April 22, 2021.

[133] Indyra Mendoza and Larissa Velásquez, Red Lésbica Cattrachas. Online interview. March 13, 2023, as well as email correspondence following the interview. June 2023.

[134] Partially dissenting opinion of Judge Elizabeth Odio, Case of *Vicky Hernández et al. v. Honduras*, Judgment of March 26, 2021.

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[188] Marcel Obst, How Opposition to Gender and Feminism Emerged in Spain, Heinrich Böll Stiftung, Gunda Werner Institute, December 7, 2020. The researchers, Fanny Gómez Lugo and Michelle Jones Pérez, along with Jota Vargas (a human rights defender and former LGBT commissioner from Costa Rica), conducted a workshop on trans-exclusionary narratives and counter-narratives during the Venir Al Sur meeting held in Montevideo in December 2022. They also led an AWID workshop entitled Who Erases Whom? Unveilling Trans-Exclusionary Narratives on May 23, 2023. See https://twitter.com/AWID/status/1659906937352339457?s=20.

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Founded in 2000 by Jon Stryker, the Arcus Foundation is a private grantmaking institution dedicated to the idea that people can live in harmony with one another and the natural world. Arcus' work is based on the belief that respect for diversity among peoples and in nature is essential to a positive future for our planet and all of its inhabitants. The foundation works globally and has offices in New York City and Cambridge, UK.

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